

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE MIDDLE DISTRICT OF ALABAMA

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UNITED STATES OF AMERICA

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DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

*

v.

* CR. NO. 3:06cr208-MEF

*

JASON EDWARD COFIELD

*

DEFENDANT'S MOTION IN LIMINE

COMES NOW the above named Jason Edward Cofield, and through appointed counsel, moves this Court to exclude the Governments's proffer of intent to use 404(b) evidence against the Defendant. As grounds for said Motion counsel avers the following;

1. The United States wishes to introduce evidence that the Defendant had a weapon when arrested in 1999 to show his intent to possess a weapon in his present charge of being a felon in possession of a firearm.

2. The United States Supreme Court has dealt specifically with this issue. The term "unfair prejudice" relates to the capacity of some concededly relevant evidence to "lure the factfinder into declaring guilt on a ground different from proof specific to the offense charged. ... 'Unfair prejudice' within the context of Federal Rules of Evidence 403 means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one. **OLD CHIEF v. UNITED STATES**, 519 U.S. 172 (1997). In **OLD CHIEF**,

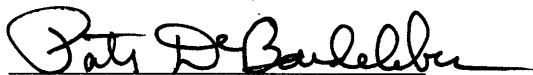
the Supreme Court held that in a prosecution for possession of a weapon by a convicted felon, if the defendant admits to his status as a convicted felon, the government should be barred, under Rule 403, from introducing evidence about the nature of the prior offense.

3. The Defendant admits his status as a convicted felon, therefore the introduction of his being in possession of a weapon in 1999 should be excluded at trial.

CONCLUSION

WHEREFORE, the Defendant moves this Court to deny the Government's proffer to use 404(b) evidence of Defendant's prior possession of a weapon in 1999 to show his intent to possess a weapon in the case at bar.

Respectfully submitted this the 5th day of March, 2007.



Pate DeBardleben, Attorney for the Defendant

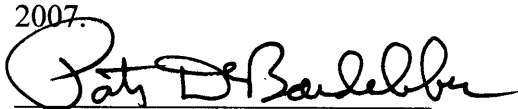
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2835 Zelda Road, Montgomery, AL 36106

334-213-0609

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on the Honorable Verne H. Speirs by mailing to 1 Court Square, Suite 201, Montgomery, AL 36104 this the 5th day of March, 2007.



Pate DeBardleben